



12-10-01

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Express Mail No. EL 477 032 252 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Vite et al.

Serial No.: 09/084,542

Group Art Unit: 1624

Filed: May 26, 1998

Examiner: B. Kifle

For: EPOTHILONE DERIVATIVES

Attorney Docket No.: LD 125b
(5624-263-999)

**PETITION UNDER 37 C.F.R. § 1.10(c) FOR CORRECTION OF FILING DATE
FOR AN INFORMATION DISCLOSURE STATEMENT**

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Corrections
Washington, DC 20231

Sir:

Applicants are submitting this Petition, and supporting documents, under 37 C.F.R. § 1.10(c) to ensure that the proper filing date is accorded for the Information Disclosure Statement filed by Express Mail on September 28, 2001.

Under 37 C.F.R. § 1.10(c), any person filing correspondence that was received by the United State Patent and Trademark Office and delivered by the "Express Mail Post Office to Addressee" service by the United States Post Office who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" label, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" label, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded a filing date other than the United States Postal Service deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers prior to the original mailing by "Express Mail"; and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in".

Applicants only recently became aware of the discrepancy between the date stamp of the return post-card and "date-in" of the "Express Mail" mailing label and believe this petition to be timely, satisfying requirement (1). Applicants submit herewith as Exhibit A a copy of the return post-card as evidence that the "Express Mail" mailing label was placed on the papers prior to the original mailing by "Express Mail", satisfying requirement (2). Finally, Applicants submit herewith as Exhibit B a true copy of the "Express Mail" mailing label showing the correct "date-in" to be September 28, 2001, satisfying requirement (3).

REMARKS

Applicants filed *via* Express Mail an Information Disclosure Statement on Friday, September 28, 2001.

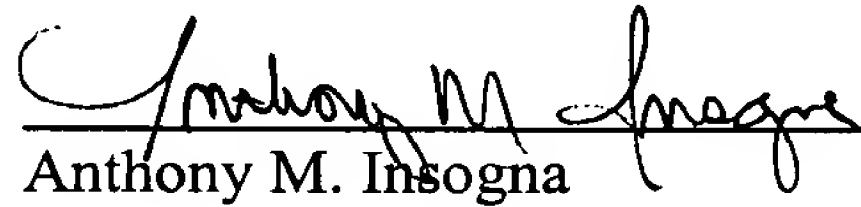
However, Applicants' return postcard was erroneously stamped by the Patent and Trademark Office as received on Monday, October 1, 2001. This stamp date is erroneous as shown by Exhibit B. Thus, to correct the record Applicants have submitted a Petition under 37 C.F.R. § 1.10(c) including supporting documents to satisfy the requirements for the Petition.

Applicants respectfully request that the Patent and Trademark Office confirm the filing date of the Information Disclosure Statement as September 28, 2001.

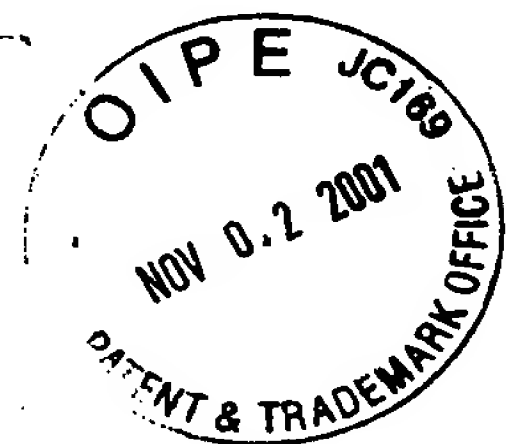
No fee is believed to be due as this request is made to correct a Patent and Trademark Office error. However, if any fee is due please charge Deposit Account No. 16-1150.

Respectfully submitted,

Date: November 2, 2001


Anthony M. Insogna 35,203
(Reg. No.)

PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090



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EXHIBIT A
COPY OF RETURN-POSTCARD (BOTH SIDES)
FOR PAPERS FILED BY EXPRESS MAIL ON SEPTEMBER 28, 2001 IN
CONNECTION WITH U.S. PATENT APPLICATION SERIAL NO.: 09/084,542
ATTORNEY DOCKET NO.: 5624-263-999

Express Mail No. EL 501 639 734 US First Class Mail ()

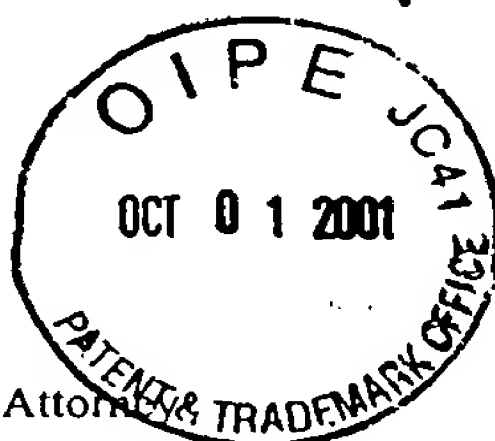
Date Mailed September 28, 2001

Serial No. 09/084,542 Filed May 26, 1998

Inventor Vite et al.

For EPOTHILONE DERIVATIVES

- | | |
|---|--|
| <input type="checkbox"/> Affidavit/Declaration | <input type="checkbox"/> Fee Address Indication Form |
| <input type="checkbox"/> Amendment | <input type="checkbox"/> Fee Calculation |
| <input type="checkbox"/> Application Pages | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Claims Drawings | <input type="checkbox"/> Letter |
| <input type="checkbox"/> Appeal, Notice of | <input type="checkbox"/> Oral Hearing Req./Confirm |
| <input type="checkbox"/> Assignment | <input type="checkbox"/> Petition to Extend Time |
| <input type="checkbox"/> Brief (in Triplicate) | <input type="checkbox"/> Pet. under 37 C.F.R. |
| <input type="checkbox"/> Declaration & Power of Attorney | <input type="checkbox"/> Power of Attorney |
| <input type="checkbox"/> Design Application | <input type="checkbox"/> Associate () w/Revocation |
| <input type="checkbox"/> Disclaimer | <input type="checkbox"/> Sequence Listing w/Computer Readable and Paper Copies |
| <input checked="" type="checkbox"/> Supplemental Information Disclosure Statement | <input type="checkbox"/> Small Entity Statement |
| <input checked="" type="checkbox"/> w/refs CBC-CBS () w/o Refs | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Drawings Formal Sheets Figures | <input type="checkbox"/> Transmittal Letter |



Other: PTO-1449 Form listing references CBC-CBS

File No. 5624-263-999

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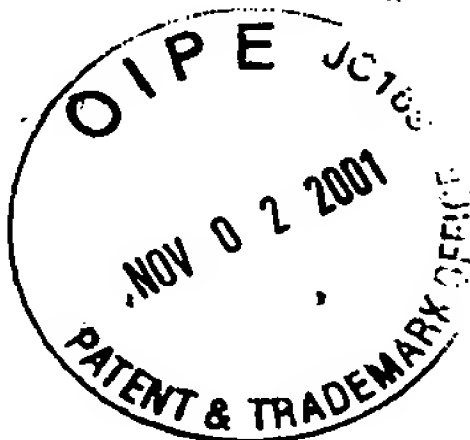
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EXHIBIT B

COPY OF EXPRESS MAIL RECEIPT TECH CENTER 1600/2900

FOR PAPERS FILED BY EXPRESS MAIL ON SEPTEMBER 28, 2001 IN
CONNECTION WITH U.S. PATENT APPLICATION SERIAL NO.: 09/084,542
ATTORNEY DOCKET NO.: 5624-263-999

POST OFFICE TO ADDRESSEE		EXPRESS MAIL			
ORIGIN (POSTAL USE ONLY)		UNITED STATES POSTAL SERVICE™		EL501639734US	
PO ZIP Code	Day of Delivery	Flat Rate Envelope			
10001	Next	<input type="checkbox"/>			
Date in	Postage	SEE REVERSE SIDE FOR SERVICE GUARANTEE AND LIMITS ON INSURANCE COVERAGE			
09/28/01	\$4.65				
Time in	Return Receipt Fee				
11:00 AM	\$0.00				
Weight	COD Fee	Insurance Fee			
3.1 lbs	\$0.00	\$0.00			
No. Delivery	Acceptance Clerk Initials	Total Postage & Fees			
<input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		\$4.65			
CUSTOMER USE ONLY		WAVES OF SIGNATURE (Domestic Only)			
METHOD OF PAYMENT:		Additional merchandise insurance is void if waiver of signature is requested.			
Express Mail Corporate Acct. No.		I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.			
Federal Agency Acct. No. or Postal Service Acct. No.		NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday <input type="checkbox"/>			
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